

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
Case No. 1:15-cv-00109-MR

SANDRA M. PETERS, on behalf of )  
herself and all others similarly )  
situated, )  
 )  
PLAINTIFF, )  
v. )  
 )  
AETNA INC., AETNA LIFE )  
INSURANCE COMPANY, and )  
OPTUMHEALTH CARE SOLUTIONS, )  
INC., )  
 )  
DEFENDANTS. )  
 )

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**CONSENT MOTION FOR  
EXTENSION OF TIME**

In accordance with Local Rule of Civil Procedure 7.1, Plaintiff Sandra M. Peters moves the Court for an order extending the time for Plaintiff to file her supplemental brief regarding class certification from August 16, 2021 to September 1, 2021, Defendants to file their response from August 30, 2021 to October 1, 2021, and for Plaintiff to file a reply brief on October 15, 2021. Defendants Aetna Inc. and Aetna Life Insurance Company (“Aetna”) and OptumHealth Care Solutions, Inc. (“Optum”) do not oppose this request.

Good cause<sup>1</sup> justifies these brief extensions for the following reasons:

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<sup>1</sup> See *Tyndall v. Maynor*, 288 F.R.D. 103, 108 (M.D.N.C. 2013) (ruling that the “touchstone” of good cause is diligence).

1. On August 2, 2021, the Court issued an order (“Order”) that following remand from the United States Court of Appeals for the Fourth Circuit, Plaintiff shall file a supplemental brief regarding class certification within fourteen (14) days of the Order, and that Defendants shall have fourteen (14) days thereafter to file a response. (Doc. #254.)

2. Plaintiff seeks an extension because her filing will take significant time. The ERISA issues and class issues implicated in this case require complex analysis. Furthermore, the record in this case contains thousands of pages, and the Fourth Circuit’s opinion that will guide the parties’ supplemental briefing is 71 pages long.

3. Additionally, the deadline set by the Court for supplemental briefing falls within the summer month of August, during which time Plaintiff’s counsel has travel plans and family obligations. Plaintiff’s counsel also has a number of previously-scheduled professional obligations between now and August 16, 2021 in other cases for which they are responsible, including a hearing on August 11 that requires time-consuming preparation.

4. Thus, absent the requested extension, Plaintiff’s counsel will not have the time necessary to prepare supplemental briefing to the extent Plaintiff expects and deserves. Plaintiff submits that in fairness, she should be granted thirty (30)

days instead of two weeks for the preparation of her supplemental brief regarding class certification.

5. Under LCvR 7.1(b), Plaintiff conferred with Defendants regarding whether they consented to this extension. Both Defendants consented. Defendants did not take a position on Plaintiff's requested deadline for a reply brief. However, such a reply brief is appropriate, as Plaintiffs are entitled to have the last word in support of their class certification motion and, otherwise, Plaintiffs will not be able to respond to how Defendants may characterize the Fourth Circuit decision. Defendants also advised that if Plaintiff's extension request is granted, they request a corresponding thirty-day extension for their response brief. Plaintiff does not oppose Defendants' request.

6. Finally, because no other deadlines have been set following supplemental class certification briefing, the requested extensions will neither delay the resolution of this case nor require any corresponding modification to any other dates.

Accordingly, the parties request that the Court grant the following brief extensions in filing supplemental class certification briefing:

<b>Task</b>	<b>Current Deadline</b>	<b>Proposed New Deadline</b>
Plaintiff's Supplemental Brief Regarding Class Certification	August 16, 2021	September 1, 2021
Defendants' Response	August 30, 2021	October 1, 2021
Plaintiff's Reply	N/A	October 15, 2021

Dated: August 4, 2021

/s/ Larry McDevitt

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### **CERTIFICATE OF SERVICE**

I certify that on August 4, 2021, I filed and served a copy of the **JOINT MOTION FOR EXTENSION OF TIME** using the CM/ECF system, which will give notice to counsel of record.

/s/ Larry McDevitt  
Larry McDevitt